

**From:** Quinones, Edwin  
**To:** ["Schoen, Michael - SOL"](#)  
**Cc:** [Le, Madeleine - SOL](#); [Moore, Gary](#); [Hayes, Mark](#); [Broyles, Ragan](#); [Webster, Susan](#)  
**Bcc:** [Peycke, Mark](#); [Ruckl, Thomas](#)  
**Subject:** RE: West Fertilizer Company Investigation  
**Date:** Friday, April 26, 2013 5:32:00 PM  
**Attachments:** [West Fertilizer Site EVIDENCE AND SITE CONTROL AGREEMENT 4-26-13.docx](#)

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Thanks, Michael. EPA's On-Scene Coordinators will get with OSHA and the ATF on their time-frame on when cleanup can begin.

Also, I'm attaching my comments to the draft Evidence and Preservation Agreement. My comments mainly reflect the challenge the agreement may have on EPA's and TCEQ's ability to address, clean up and remove contaminated material. Please understand that EPA management has not yet reviewed, much less approved, the draft or my comments. However, in the interest of expediting both our response and investigative efforts, I thought I'd forward you my comments at this time for everyone's convenience.

Unfortunately, I'll be out of the office on Monday, but will be available to discuss any issues when I return on Tuesday.

Best regards,

Ed Quinones  
Assistant Regional Counsel, EPA Region 6  
214-665-8035

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**From:** Schoen, Michael - SOL [mailto:[Schoen.Michael@dol.gov](mailto:Schoen.Michael@dol.gov)]  
**Sent:** Friday, April 26, 2013 11:30 AM  
**To:** Quinones, Edwin  
**Cc:** Le, Madeleine - SOL  
**Subject:** RE: West Fertilizer Company Investigation

Good morning, Ed. I will be working with OSHA to assist in the evidence agreement to extent necessary, but at this stage, you will be best served in dealing directly with Mr. Rector on questions of the type posed below relating to actual investigation efforts and process. I understand that ATF is still in control of the site and issues such as cleanup and/or response are subject to their directions and discretion. I spoke with Mr. Rector briefly this morning and he can probably fill you in more thoroughly on that score.

Thanks and look forward to working with your office.

**MICHAEL D. SCHOEN**  
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U.S. Department of Labor  
Office of the Solicitor

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**From:** Quinones, Edwin [<mailto:quinones.edwin@epa.gov>]  
**Sent:** Wednesday, April 24, 2013 2:47 PM  
**To:** Schoen, Michael - SOL  
**Cc:** Rector, Jack - OSHA; Moore, Gary; Hayes, Mark  
**Subject:** FW: West Fertilizer Company Investigation

Hi Michael,

I understand you're the attorney with DOL who provided a draft proposed "preservation of evidence" agreement? EPA is currently reviewing the draft and will provide comments to you and Jack Rector shortly.

In the meantime, however, do you or Mr. Rector know of a timeframe on when OSHA and the Chemical Safety Board will complete their Incident Cause Investigations? The reason I ask is because the EPA and TCEQ On-Scene Coordinators would like to have a timeframe to better plan the initiation of much needed cleanup and response efforts.

Thanks,

Ed Quinones  
Assistant Regional Counsel  
US EPA Region 6  
1445 Ross Ave.  
Dallas, TX 75202  
214-665-8035

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**From:** Rector, Jack - OSHA [<mailto:Rector.Jack@dol.gov>]  
**Sent:** Wednesday, April 24, 2013 10:40 AM  
**To:** Quinones, Edwin  
**Subject:** RE: West Fertilizer Company Investigation

Edwin,

The SOL is not specifically assigned to this case or the site at this time, he was just asked to help with the Evidence and Site Control Agreement for OSHA. He can be reached through his e-mail at [schoen.michael@dol.gov](mailto:schoen.michael@dol.gov)

Jack A. Rector  
Area Director Fort Worth  
(817) 581-7303 x-227

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**From:** Quinones, Edwin [<mailto:quinones.edwin@epa.gov>]  
**Sent:** Tuesday, April 23, 2013 5:40 PM  
**To:** Rector, Jack - OSHA  
**Cc:** Moore, Gary  
**Subject:** RE: West Fertilizer Company Investigation

No problem, Jack. I was able to do a copy and paste into Word.

Would you please give me the name and contact info of the OSHA attorney assigned to this Site?

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**From:** Rector, Jack - OSHA [<mailto:Rector.Jack@dol.gov>]  
**Sent:** Tuesday, April 23, 2013 3:59 PM  
**To:** Quinones, Edwin  
**Subject:** RE: West Fertilizer Company Investigation

I did not get a copy in word from our solicitor's office. If there are any changes and additions you would like, please list them on a word document and I will have our SOL compile all the changes from each Agency into one draft form. After all the Agencies respond, we will compile and send out the draft again for review. Thanks....

JACK RECTOR  
Area Director Fort Worth  
(817) 581-7303 x-227

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**From:** Quinones, Edwin [<mailto:quinones.edwin@epa.gov>]  
**Sent:** Tuesday, April 23, 2013 2:16 PM  
**To:** Rector, Jack - OSHA  
**Cc:** Moore, Gary  
**Subject:** FW: West Fertilizer Company Investigation

Hi Jack,

Would you happen to have the draft agreement in Word or Wordperfect format? If so, would you please send me the draft in that format? Thanks,

Ed Quinones  
Assistant Regional Counsel  
U.S. EPA Region 6  
1445 Ross Ave.  
Dallas, TX 75202  
214-665-8035

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**From:** Moore, Gary  
**Sent:** Monday, April 22, 2013 12:45 PM  
**To:** Quinones, Edwin  
**Cc:** Webster, Susan; Hayes, Mark; Delgado, Paige  
**Subject:** FW: West Fertilizer Company Investigation

**Ed:**

**Could you please review this Evidence and Site Control Agreement prepared by OSHA for the group. This issue is how to preserve evidence and site control so that actions taken by the various agencies do not impact the evidence on the site.**

**I do not necessarily think that we will be doing any evidence collection activities but may need to collect on-site samples. It appears that TCEQ wants the lead on the cleanup activities on the site should the RP decide not to do such actions. They intend on issuing a demand letter to the owner very soon.**

**Please review this agreement with our managers and make whatever modifications need to be made to this agreement for us to be a party if we determine that we may take some actions on the site.**

**Thanks**

**Gary Moore**  
Federal On-Scene Coordinator  
U.S. EPA Region 6  
214-789-1627 cell  
214-665-6609 office  
[moore.gary@epa.gov](mailto:moore.gary@epa.gov)

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**From:** Rector, Jack - OSHA [Rector.Jack@dol.gov]  
**Sent:** Sunday, April 21, 2013 3:34 PM  
**To:** Delgado, Paige; [kelly.crunk@tceq.texas.gov](mailto:kelly.crunk@tceq.texas.gov); [don.holmstrom@csb.gov](mailto:don.holmstrom@csb.gov); Moore, Gary; [cheryl.mackenzie@csb.gov](mailto:cheryl.mackenzie@csb.gov)  
**Subject:** Fwd: West Fertilizer Company Investigation

All,

Attached is a working draft of an evidence and site control agreement for this matter. It is modeled after some others OSHA has used in prior cases, however, we will need to come up with some more precise definitional items, e.g., the exclusion zone in paragraph A.1.a and/or paragraph C.8.a (dealing with steps for evidence collection removal steps that are

specific to this situation). Please look it over and let me know what changes, additions, etc. everyone would like to see. I will compile those into one agreement and send out for everyone's approval. Thanks...

Jack Rector

Sent from my iPad

Begin forwarded message:

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